

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 4, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of March 4, 2009, was called to order by Mayor Hansen at 6:30 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Threatened Litigation: Government Code §54956.9(b): One Case: Potential Suit by Jose Nava against City of Lodi Based on Personal Injury
- b) Actual Litigation: Government Code §54956.9(a): One Case: City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Francisco Superior Court, Case No. CGC-05-441976
- c) Threatened Litigation: Government Code §54956.9(b): One Case: Potential Suit - Gottschalk v. City of Lodi Regarding Alleged Lien on Donovan Settlement

C-3 Adjourn to Closed Session

At 6:30 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 7:00 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:05 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was not discussed.

In regard to Item C-2 (b) and C-2 (c), direction was given relevant to filing an interpleader action for competing claims.

A. Call to Order / Roll call

The Regular City Council meeting of March 4, 2009, was called to order by Mayor Hansen at 7:05 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Reader Arlene Proctor, First Church of Christ, Scientist

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations - None

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Mounce made a motion, second by Council Member Hitchcock, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$7,900,107.22 (FIN)

Claims were approved in the amount of \$7,900,107.22.

E-2 Approve Minutes (CLK)

This item was pulled by Robin Rushing, a member of the public. In response to his inquiry about the availability of Dial-A-Ride services and the costs related to providing said services, Mayor Hansen stated a member of staff will contact Mr. Rushing to discuss his concerns.

Council Member Hitchcock made a motion, second by Council Member Johnson, to approve the minutes of February 11, 2009 (Special Joint Meeting w/Planning Commission), February 17, 2009 (Shirtsleeve Session), February 18, 2009 (Regular Meeting), February 24, 2009 (Shirtsleeve Session), and February 24, 2009 (Special Meeting) as written.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-3 Approve Issuance of a Request for Proposals from Qualified Consultants to Prepare an Environmental Impact Report for the Electric Utility Department Power Line Project (CD)

This item was pulled by Council Member Hitchcock for further discussion.

In response to Council Member Hitchcock, Interim Community Development Director Rad Bartlam stated that, based on the project description he received from Electric Utility, it appears that the intent is not yet to pick a preferred alternative but rather go through the scoping period process studying all three routes to determine which will rise to the top as the preferred

alternative. City Manager King confirmed that he does not recall a preferred alternative being designated already and the process of studying the routes will determine the same.

Council Member Johnson stated that he will not be voting in favor of the motion because he prefers to designate a preferred route and then study it.

In response to Council Member Mounce, Mr. Bartlam stated there may be a decreased cost with only studying the preferred route, Electric Utility completed the preliminary background for Environmental Impact Report (EIR) preparation without designating a preferred alternative, the preferred alternative should come from the EIR process, and the EIR process for Electric Utility is different from that used for Community Development.

In response to Council Member Hitchcock, Mr. Bartlam stated the process is similar to that used for the General Plan based on the scoping process, which occurred over the last two years.

Council Member Hitchcock made a motion, second by Council Member Mounce, to approve the issuance of a request for proposals from qualified consultants to prepare an Environmental Impact Report for the Electric Utility Department power line project.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Johnson

Absent: None

E-4 Approve Specifications and Authorize Advertisement for Bids for Maintenance of Lodi Consolidated Landscape Maintenance Assessment District 2003-1, Fiscal Year 2009-10 (PW)

Approved the specifications and authorized advertisement for bids for Maintenance of Lodi Consolidated Landscape Maintenance Assessment District 2003-1, Fiscal Year 2009-10.

E-5 Adopt Resolution Approving Contract Addenda with 360 - CA Schrock Architects, of San Francisco, for Grape Bowl Phase 1 Renovation Project Consistent with Prior City Council Approval of the 2007-08 Federal Allocation of Community Development Block Grant Funds (\$91,300) (PW)

Adopted Resolution No. 2009-22 approving contract addenda with 360 - CA Schrock Architects, of San Francisco, for Grape Bowl Phase 1 Renovation Project consistent with prior City Council approval of the 2007-08 Federal allocation of Community Development Block Grant Funds in the amount of \$91,300.

E-6 Adopt Resolution Authorizing the Purchase of Police and Fire Radio Equipment and Accepting Federal Homeland Security Grant Funds of \$480,151.80 (FD)

This item was pulled by Council Member Hitchcock for further discussion.

In response to Council Member Hitchcock, City Manager King stated the approximate \$480,000 in grants is not matching in nature and there is no requirement to expend the entire \$1.2 million that is anticipated for the complete project. Fire Chief Mike Pretz confirmed that the City can receive the \$480,000 now and start on one stand-alone piece and complete the rest when there is a funding source available. Mr. King stated the current proposed purchase of the equipment is unrelated to dispatch as the equipment used by dispatch is housed in an area separate from

where the proposed equipment will be located. Chief Pretz provided a brief overview of how the equipment will be utilized for digitizing purposes.

Council Member Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-24 authorizing the purchase of Police and Fire radio equipment and accepting Federal Homeland Security Grant funds of \$480,151.80.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-7 Adopt Resolution Authorizing Destruction of Certain Citywide Records in Accordance with the Government Code and the City's Records Management Policy (CLK)

Adopt Resolution No. 2009-23 authorizing destruction of certain Citywide records in accordance with the Government Code and the City's Records Management Policy.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

None.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Johnson reported on his attendance at the County Task Force meeting for the proposed County jail. Topics of discussion at the meeting included operations, costs for operating the proposed jail by various agencies, and the consultant that is exploring funding options.

Council Member Hitchcock reported on her participation in an information gathering panel between the County, Stockton, Lodi, and Armstrong Road property owners with respect to preservation of open space between Stockton and Lodi. Ms. Hitchcock stated further meetings will be arranged between the interested parties to gather additional information pertaining to that area.

Mayor Hansen reported on his attendance at the Northern California Power Agency Commission meeting where topics of discussion included a reduction of 14% of the proposed budget and removable portfolio standards as part of AB 32 and SB 14. Mr. Hansen also reported on his attendance at the American Public Power Association legislative rally where he met with Congressman McNerney and discussed Lodi Lake and energy issues. At the San Joaquin Council of Governments Commission meeting, actions pertaining to Highway 12 safety were taken and a meeting was had with legislators and Caltrans regarding Highway 12 improvements. Mr. Hansen also reported on a meeting he will be attending on March 20, 2009, regarding Stockton seeking a permanent seat on the Local Agency Formation Commission. Mr. Hansen

requested information be provided to the City Council by Electric Utility regarding energy portfolios as he reported on California Independent System Operator going live on an energy transmission program at a higher cost than originally anticipated. Mr. Hansen also commended Dale Eubanks and JD Moore on their receipt of awards at the annual Police Awards Ceremony.

Council Member Hitchcock reported that the Lodi Unified School District will be retaining approximately 175 teachers that were originally going to be laid off and maintain elementary school sizes.

H. Comments by the City Manager on Non-Agenda Items

City Manager King reported that the furlough process is being implemented and City Hall along with most other City facilities will be closed on the last Friday of the month beginning March 27, 2009.

I. Public Hearings

I-1 Public Hearing to Consider the Building Division Cost Analysis Study and Adopt Fee Schedule (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the Building Division Cost Analysis Study and adoption of fee schedule.

City Manager King briefly introduced the subject matter of the Community Development Building Division study.

Interim Community Development Director Rad Bartlam provided an overview of the cost analysis study and findings of the same. Specific topics of discussion included fiscal analysis by project size, fully burdened rate calculations, comparisons to other jurisdictions in the region, and staff recommendations for cost recovery regarding the same.

In response to Mayor Hansen, Mr. Bartlam stated that, although the cost of an actual project may be small such as a patio cover or water heater, it would still require staff time for inspection and public safety purposes and instruction time for the homeowner who is completing the project themselves. Mr. Bartlam confirmed that the City could charge a flat fee for the smaller projects as a part of Council policy if that was the direction. Mr. King stated there will be a certain fixed cost for the City regardless of the size and cost of the actual project.

In response to Council Member Johnson, Mr. Bartlam stated there may be a situation where a tenant may need to obtain an occupancy permit even if they are relocating from Suite A to Suite B, but he would need to gather additional information about the particular situation.

In response to Council Member Mounce, Mr. Bartlam stated generally an unpermitted project is unnoticed until a complaint is received or the property is sold in which case a permit could be issued after the fact. Mr. Bartlam stated it is more difficult with foreclosures.

In response to Mayor Hansen, Mr. Bartlam stated staff is recommending a \$150 flat rate for water heaters.

In response to Council Member Hitchcock, Mr. Bartlam stated insurance loss may be applicable for consequence purposes if something is not permitted because the insurance company may refuse to pay for something that was not permitted.

In response to Council Member Hitchcock, Mr. Bartlam stated the proposed effective date is July 1, 2009, to allow some time for noticing and the effective date for larger projects could be moved up to prevent a rush if the Council desires; although, the larger projects have the greatest existing cost recovery.

In response to Mayor Hansen and Council Member Hitchcock, Mr. King stated whether or not to tier the effective date is a Council policy; although, the City is not aware of any large projects that may be coming forward.

Mayor Hansen and Council Member Mounce expressed the need to have a smaller fee for water heater installations and smaller projects in order to encourage compliance with the Code.

In response to Council Member Mounce, Mr. Bartlam stated the board of appeals fee refers more often to a contractor appealing a code decision rather than a planning appeal and is very rare.

In response to Mayor Pro Tempore Katzakian, Mr. Bartlam stated typically one inspection is needed for water heater installations. Mr. Bartlam stated the projected revenues from the fees are \$75,000 and water heaters are a very small percentage of that number. Mr. Bartlam stated the revenue projections for next year would include the proposed recommendations and anything above for the current year would help decrease the Community Development current year deficit of approximately \$700,000.

In response to Council Member Johnson, Mr. Bartlam confirmed that a permit would be needed to replace windows and too much modification to suggested fees may defeat the purpose.

Mayor Pro Tempore Katzakian and Council Member Mounce stated they agreed with a 25% recovery for water heaters.

In response to Council Member Hitchcock, Mr. Bartlam stated the fee for a \$2,000 awning is approximately \$330 and the proposed fee recovery for the first two categories is 50%.

Council Member Hitchcock made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-25 approving Community Development Department Building Code related fees as recommended with the exception of water heaters and the \$500 or less project category.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: None

Mayor Pro Tempore Katzakian made a motion, second by Council Member Johnson, to approve Community Development Department Building Code related fees for water heaters at 25% of cost recovery and \$500 or less valuated projects at 25% of cost recovery.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

a) Post for One Vacancy on the Lodi Arts Commission (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to direct the City Clerk to post for the following vacancy:

Lodi Arts Commission

Frances Benavidez, term to expire July 1, 2009.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Adopt Resolution Granting Designated Period for Two Years Additional Service Credit (CM)

City Manager King briefly introduced the subject matter of the two years additional service credit.

Human Resources Manager Dean Gualco provided a brief presentation regarding the two years additional service credit. Mr. Gualco specifically discussed the granting of an option for two years additional service credit, posting requirement for two weeks, the process to adopt the list and designate positions, and the process of the offer and acceptance.

In response to Council Member Mounce, Mr. Gualco stated the positions that would accept offers are listed on the blue sheet.

In response to Council Member Hitchcock, Mr. Gualco stated approximately 8 to 10 people may accept the offer, the cost per year is \$35,000 starting in 2 years over a 20-year period, the savings is approximately \$900,000, and the City would recoup the \$700,000 in the first year with the vacancies of 2 years or more.

In response to Council Member Hitchcock, Mr. King stated the position could be temporarily filled by a closely aligned position and an example could be an Interim Fire Chief title that is held by someone who is currently holding a closely aligned position.

In response to Council Member Hitchcock, Mr. King stated the Fire Department organizational chart consists of the Fire Chief, two Division heads, five Battalion Chiefs, line staff of captains and engineers, and firefighters.

In response to Council Member Hitchcock, Mr. Gualco stated there are 15 captains.

In response to Council Member Johnson, Mr. Ayers and Mr. Gualco stated the positions indicated in bold are eligible for the option.

In response to Mayor Pro Tempore Katzakian, Mr. Gualco provided an overview of Government Code Section 20903 and specifically discussed the CalPers retirement incentive of two years to be given to employees, which allows early retirements to alleviate the budget in tough fiscal years. Mr. Gualco stated the offer must be made to a certain classification and position, a notice is given with costs, a resolution is approved, the offer is extended, acceptance occurs within 180 days, the administrative process is completed, 2 years of service is added to the retirement, and in 2 years CalPers beings to assess the 2-year difference over a 20-year period. Mr. King confirmed that the 20-year period is designated by CalPers.

In response to Council Member Hitchcock, Mr. Gualco confirmed that the increase in service year credit for the additional 2 years is what is amortized over the 20-year period.

In response to Council Member Hitchcock, Mr. King stated there is a cost savings regardless in the first year by not filling positions, the process for CalPers requires full disclosure of costs which was incorporated in the first presentation to the City Council, and the current presentation shows what the actual cost savings would be based on the likelihood of those retiring.

Council Member Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-26 granting designated period for two years additional service credit.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-2 Provide Staff Direction Regarding Drafting Ordinance Reducing Maximum Street Parking for Recreational Vehicles (CA)

City Attorney Schwabauer stated at the request of Council Member Mounce he is seeking direction to begin researching the possibility of drafting a Code amendment reducing the hours of parking for recreational vehicles and a related Council policy.

Council Member Mounce stated she received a complaint from a citizen on the issue and would prefer to see the hours reduced from 72 to 48.

In response to Mayor Pro Tempore Katzakian, Mr. Schwabauer stated the current restriction is 72 hours for both regular vehicles and recreational vehicles, and it is common for people to drive a short distance to move their vehicles for enforcement purposes before they park them in the same place again. Mr. Katzakian stated he would like to see some time in between the parking to alleviate that problem.

The City Council provided general direction to the City Attorney to gather information regarding what other cities have for enforcement, time periods in between parking, and the time period allowed for parking, along with any other special concerns of the communities. Mr. Schwabauer stated there may be an ability to provide some restrictions for designated areas only in light of an area's specific needs like narrow streets.

In response to Mayor Hansen, Mr. Schwabauer stated the City currently has an ordinance prohibiting individuals from living in a camper.

K-3 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the

Environmental Abatement Program Litigation (\$345,276.99) (CA)

Council Member Hitchcock made a motion, second by Council Member Johnson, to approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$345,276.99.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:30 p.m.

ATTEST:

Randi Johl
City Clerk